

Legislation Details (With Text)

File #: 23-8 **Version:** 1
Type: Ordinance First Reading **Status:** Second Reading
In control: City Council
On agenda: 1/9/2023 **Final action:**
Title: Vacation of Cross Street SE west of 20th Street SE.

Ward(s): 2
 Councilor(s): Nishioka
 Neighborhood(s): Southeast Salem Neighborhood Association
 Result Area(s): Safe, Reliable and Efficient Infrastructure

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance Bill No. 1-23, 2. Legal Description and Map

Date	Ver.	Action By	Action	Result
1/9/2023	1	City Council	introduced on first reading	Pass

TO: Mayor and City Council
THROUGH: Keith Stahley, City Manager
FROM: Brian Martin, PE, Interim Public Works Director

SUBJECT:

Vacation of Cross Street SE west of 20th Street SE.

Ward(s): 2
 Councilor(s): Nishioka
 Neighborhood(s): Southeast Salem Neighborhood Association
 Result Area(s): Safe, Reliable and Efficient Infrastructure

SUMMARY:

The City of Salem received a petition from DEW Investments, LLC (Petitioner) to vacate Cross Street SE west of 20th Street SE as shown in the attached figures. Petitioner seeks to vacate this area to allow the neighboring Hyundai Dealership to use the right-of-way for secured parking and storage of vehicles. On December 5, 2022, Council approved vacating Cross Street SE.

ISSUE:

Shall City Council conduct first reading of Ordinance Bill No. 1-23, which vacates Cross Street SE

west of 20th Street SE, and advance Ordinance Bill No. 1-23 to second reading for enactment?

RECOMMENDATION:

Conduct first reading of Ordinance Bill No. 1-23, which vacates Cross Street SE west of 20th Street SE, and advance Ordinance Bill No. 1-23 to second reading for enactment.

FACTS AND FINDINGS:

Property owners may file a petition to vacate all or part of a right-of-way pursuant to *Oregon Revised Statute* (ORS) 271.080 and 271.090, and *Salem Revised Code* (SRC) 255.065 as shown on Attachments 1 and 2. The Petitioner has submitted a petition to vacate Cross Street SE west of 20th Street SE pursuant to these ordinances. The petition is on file with the Public Works Department.

The petitioner seeks to vacate an under-improved 137-foot-long section of Cross Street SE west of 20th Street SE to allow for the neighboring Hyundai Dealership to use the right-of-way for secured parking and storage of vehicles. The petitioner owns the surrounding property and seeks to eliminate multiple gates, crossings, and cross fencing along its current property boundaries.

Public Works staff reviewed the petition and have determined it contains all the submittal requirements and property owner consents as required by SRC 255.065(b)(2)-(3) and ORS 271.080-271.230. On October 10, 2022, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation.

On November 14, 2022, Council held a public hearing to consider the vacation. The public hearing was continued to December 5, 2022. Council approved a motion to approve the vacation of Cross Street SE and waive the assessment of special benefit, with the condition that the applicant convey easements as needed for public and private utilities within the area proposed for vacation.

Approval Criteria

(A) *The area proposed to be vacated is not presently, or will not in the future be needed for public services, facilities, or utilities;*

FINDING: Transportation: The area proposed for vacation does not presently serve a transportation function since the right-of-way for Cross Street SE terminates approximately 137 feet west of 20th Street SE.

Utilities: Notice of the proposed vacation was sent to all potentially affected public utilities. An existing 15-inch sanitary sewer line is located within the area to be vacated. Vacation of this right-of-way would require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of this vacation.

With the condition that an easement be provided for the existing utility, the vacation complies with

this criterion.

(B) *The vacation does not prevent the extension of, or the retention of public services, facilities, or utilities;*

FINDING: *Transportation:* The right-of-way to be vacated is unlikely to be extended through the existing private properties to create a connection with Cross Street SE farther west.

Utilities: The 15-inch sanitary sewer line would require provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

With the condition that an easement be provided for the existing utility, the vacation complies with this criterion.

(C) *Public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location;*

FINDING: *Transportation:* Cross Street SE does not represent a significant opportunity to extend a local street due to the privately owned lots west of the area proposed for vacation.

Utilities: The 15-inch sanitary sewer line would require provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

With the condition that an easement be provided for the existing utility, the vacation complies with this criterion.

(D) *The vacation does not impede the future best use, development of, or access to abutting property;*

FINDING: In its current configuration, the vacation will not impede access to abutting properties. The right-of-way to be vacated does not currently function as part of the transportation network. The vacation complies with this criterion.

(E) *The vacation does not conflict with provisions of the Unified Development Code (UDC), including street connectivity standards and block lengths;*

FINDING: Cross Street SE does not currently function as part of the transportation network. The vacation complies with this criterion.

(F) *All required consents have been obtained;*

FINDING: Petition-initiated vacations require the consent of 100 percent of the abutting real property owners and two-thirds of the property owners within the affected area, which is defined in ORS 271.080. The applicant has submitted the signed consent of abutting and affected property owners and staff has determined that all of the required consents have been obtained. The vacation

complies with this criterion.

(G) *Notices required by ORS 271.080-271.130 have been duly given;*

FINDING: Notice of Public Hearing was provided as required by ORS 271.080-271.030. Notice was published in the *Statesman Journal* and posted on the right-of-way for vacation. The vacation complies with this criterion.

(H) *The public interest would not be prejudiced by the vacation;*

FINDING: The conditional vacation of this right-of-way would have no impact on the public interest. Petitioner intends to use the area in a manner consistent with the land use abutting the area to the north, west, and south. The area to be vacated effectively functions as part of the surrounding property at present. The vacation complies with this criterion.

BACKGROUND:

The petitioner seeks to vacate an under-improved, 137-foot-long section of Cross Street SE west of 20th Street SE to allow for the neighboring Hyundai Dealership to use the right-of-way for secured parking and storage of vehicles. The petitioner owns the surrounding property and seeks to eliminate multiple gates, crossings, and cross fencing along its current property boundaries.

Robert D. Chandler, PhD, PE
Assistant Public Works Director

Attachments:

1. Ordinance Bill No. 1-23
2. Legal Description and Map